

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**New York Independent System Operator, Inc. )      Docket No. ER09-\_\_\_\_-000**

**NOTIFICATION OF TARIFF IMPLEMENTATION ERROR  
AND REQUEST FOR LIMITED TARIFF WAIVERS OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

The New York Independent System Operator, Inc. (“NYISO”) submits this Notification of Tariff Implementation Error and Request for Limited Tariff Waivers in order to (i) formally notify the Federal Energy Regulatory Commission (“Commission”) of a recent update to the NYISO’s Market Information System (“MIS”) Bid<sup>1</sup> submission software that had an unanticipated, *de minimis* (but perceptible) impact on the NYISO’s implementation of Sections 3.1.2 and 3.1.4(d) of its Market Power Mitigation Measures (“Mitigation Measures”)<sup>2</sup>; (ii) inform the Commission of the steps that the NYISO has taken to resolve the concern it identified; and (iii) request Tariff waivers to excuse the NYISO from recalculating market clearing prices, revising Generator settlements after-the-fact, revising mitigation results, or altering the inputs used to determine Generator reference levels to address the concern it identified.

A software change that the NYISO deployed on January 13, 2009, to improve the usability of its MIS<sup>3</sup> had an unanticipated impact on the NYISO’s calculation of Bid-based start-

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<sup>1</sup> Capitalized terms that are not defined herein have the meaning ascribed to them in the NYISO’s Market Administration and Control Area Services Tariff.

<sup>2</sup> The Mitigation Measures are set forth in Attachment H to the NYISO’s Market Administration and Control Area Services Tariff.

<sup>3</sup> Customers participating in the NYISO-administered Day-Ahead and Real-Time Markets submit and revise their Bids (which could include start-up, minimum generation, incremental energy, and various ancillary services components) via the MIS.

up reference levels for Generators from February 4, 2009 to April 2, 2009, and on the NYISO's conduct testing of a small number of Generator Start-Up Bids from January 13, 2009 to April 2, 2009. The purpose of the January 13 software improvement was to automatically apply modified Start-Up Bid<sup>4</sup> data to all pending Bids that had not yet been "locked" (at market close) for evaluation in the NYISO's Day-Ahead or Real-Time Markets. However, the new MIS functionality did not pass the revised Start-Up Bid data to the NYISO's "SASREF" program, which is used to develop Generator reference levels, nor did MIS use the updated Start-Up Bid when it performed conduct tests.

As a result, for Generators that submitted, and then changed their Start-Up Bid data prior to market close, the NYISO used different Start-Up Bids to commit and settle these Generators from the Start-Up Bids that were used to conduct test these Generators' Bids for mitigation purposes, and to develop Bid-based start-up reference levels. On April 2, 2009 the NYISO "rolled-back" the software improvement it had deployed on January 13, 2009. From that date forward, the NYISO's implementation of its Mitigation Measures has been fully Tariff compliant.

As described in greater detail below, the NYISO has identified the following *de minimis* Real-Time Market impacts that resulted from the identified concern: (i) three instances in which Generators' guarantee payments were over-mitigated by a total of approximately \$265.04, (ii) two instances in which Generators' guarantee payments were under-mitigated by a total of approximately \$178.95, and (iii) a negligible (0.7%) impact on the development of the only real-

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<sup>4</sup> A Supplier's Start-Up Bid establishes the payment that a Supplier requires to bring a Generator up to its specified minimum operating level from an offline state.

time Bid-based start-up reference level that was used in the NYISO markets during the affected period. The Day-Ahead Market was not affected.

Upon discovering the issue, the NYISO informed its stakeholders and Commission Staff in an expeditious manner. The NYISO promptly “backed out” the software update, so that the same Start-Up Bid data is being used for commitment, settlement, and mitigation purposes on a going forward basis.

In light of the *de minimis* financial impacts arising from this error, the NYISO respectfully requests that the Commission grant it a limited waiver, to the extent necessary, to excuse the NYISO from (a) revising the mitigation it applied, (b) recalculating reference levels, (c) revising Generator settlements after-the-fact, and (d) revising market clearing prices from January 13, 2009 to April 2, 2009 to correct the *de minimis* financial impacts that resulted from using inconsistent Start-Up Bids in a small number of instances.

## I. Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel  
Elaine D. Robinson, Director of Regulatory Affairs  
\*Alex M. Schnell  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
Tel: (518) 356-8707  
Fax: (518) 356-7678  
aschnell@nyiso.com

\*Ted J. Murphy  
Hunton & Williams LLP  
1900 K Street, N.W.  
Suite 1200  
Washington, D.C. 20006-1109  
Tel: (202) 955-1500  
Fax: (202) 778-2201  
tmurphy@hunton.com

\* -- Persons designated for receipt of service.

## II. Background

The NYISO's Mitigation Measures establish the method by which the NYISO's Market Monitoring and Performance Department ("MMP")<sup>5</sup> reviews the bidding behavior of Market Participants and mitigates any conduct by Market Participants that would substantively distort competitive outcomes in the NYISO-administered markets. Pursuant to the Mitigation Measures, MMP develops a reference level for Market Participant Bids (which may include Start-Up, Minimum Generation, Incremental Energy, and various Ancillary Services Bids). A reference level is a proxy for the Bid that an economically rational Generator would be expected to submit under competitive conditions. Section 3.1.4(d) of the Mitigation Measures sets forth, in order of preference, three methods of developing the reference level for a Generator's Start-Up Bid. The preferred method is the Bid-based reference level. The NYISO calculates a Bid-based start-up reference level by taking the lower of the mean or median of a minimum of 15 accepted Start-Up Bids for a Generator during competitive periods over a rolling 90-day period. Other permissible methods of calculating reference levels for Start-Up Bids include cost-based reference levels and NYISO-determined reference levels.

The NYISO uses reference levels to determine whether a Market Participant's Bid violates the conduct and impact thresholds contained in the Mitigation Measures. A Bid that exceeds the Generator's reference level by more than the applicable conduct threshold, and that also has the requisite impact on market clearing prices or guarantee payments is replaced with an appropriately calculated reference level.<sup>6</sup>

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<sup>5</sup> In its May 15, 2009 Order 719 compliance filing in Docket No. ER09-1142-000, the NYISO proposes to re-name MMP the "Market Mitigation and Analysis Department" and to modify its duties. The Market Mitigation and Analysis Department will continue to be primarily responsible for performing mitigation on the NYISO's behalf.

<sup>6</sup> Start-up conduct thresholds are set forth in Section 3.1.2(a)(3) and 3.1.2(b)(4) of the Mitigation Measures. Impact thresholds are set forth in Section 3.2.1 of the Mitigation Measures.

On January 13, 2009, the NYISO deployed a software change that was intended to improve the usability of the MIS by providing bidders of generation with a more user-friendly method of updating their Bids to ensure that the Bids for each of their Generators in the NYISO's Day-Ahead and Real-Time Markets were evaluated using the most recently updated Start-Up Bid data submitted for that Generator.<sup>7</sup> On March 30, 2009, while performing testing to ensure the accuracy of a Generator's real-time Bid-based start-up reference level, MMP discovered that this software change had an unanticipated impact on the NYISO's application of its Mitigation Measures. Specifically, for a Generator that changed its Start-Up Bid data after a Bid had been submitted to MIS (but that did not re-submit the entire Bid), the upgraded software passed the most recent Start-Up Bid data from MIS to the NYISO systems that are used for commitment and settlement, but (i) passed on the "original," unrevised (i.e., first submitted) Start-Up Bid data to the "SASREF" software that the NYISO uses to develop reference levels and (ii) used the original, unrevised Start-Up Bid data to perform conduct tests on the Generator's Bids for possible mitigation.

As a result, in those instances during the affected period (from January 13, 2009 to April 2, 2009) when a Generator revised its Start-Up Bid data without resubmitting its entire Bid to the MIS, the NYISO used inconsistent Start-Up Bids for the commitment and settlement of the Generator on the one hand, and for the application of its Mitigation Measures on the other.<sup>8</sup> Specifically, in a small number of instances, the NYISO did not accurately conduct test Start-Up

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<sup>7</sup> Prior to January 13, 2009, the MIS required a bidder desiring to revise the Start-Up Bid data associated with previously submitted Bids to revise the data and then to re-submit the entire Bid. On January 13, 2009, the NYISO updated the MIS so that when a bidder updates the Start-Up Bid data for a Generator, all open Bids for that Generator automatically use the revised Start-Up Bid without having to separately re-submit each affected Bid to MIS. As explained above, this software improvement was "backed out" of the MIS on April 2, 2009.

<sup>8</sup> The Impact test was appropriately calculated using the same Bids that were used in the commitment/settlement process. Only Bids that fail conduct must be tested for impact and mitigated if impact is determined.

Bids pursuant to Section 3.1.2 of the Mitigation Measures because it performed the conduct test using original, unrevised Start-Up Bids, which were different from the Bids that were actually used to commit and settle (compensate) the Generator.<sup>9</sup> In addition, the NYISO did not accurately calculate Bid-based start-up reference levels pursuant to Section 3.1.4(d) of the Mitigation Measures because the SASREF incorporated some original, unrevised Start-Up Bids in the rolling 90-day Bid history used to calculate Bid-based start-up reference levels that were not the same Start-Up Bids that were actually accepted by the NYISO's commitment software. As described in Part IV below, the impacts to the NYISO-administered Day-Ahead and Real-Time Markets resulting from the use of inconsistent Start-Up Bids for commitment, settlement, and mitigation purposes were *de minimis*.

### **III. Corrective Actions**

Upon discovering an inconsistency in a Generator's real-time Bid-based start-up reference level on March 30, 2009, the NYISO promptly began a detailed technical review to determine the cause, nature, and impact of the inconsistency. On April 1, 2009, the NYISO identified the compliance concern that is described in this filing. The NYISO immediately informed its independent Market Advisor and Commission Office of Enforcement Staff of this issue.<sup>10</sup>

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<sup>9</sup> Section 3.1.2 of the Mitigation Measures sets forth the rules that the NYISO follows in performing its conduct test. Section 3.1.2 of the Mitigation Measures explains that its purpose is to "identify economic withholding that may warrant the mitigation of a Generator." In order to identify such withholding, the NYISO must, necessarily, conduct test the Bid that is used to determine if a Generator should be committed, and to determine the Generator's compensation. By conduct testing a Generator's original (first submitted) Bid, but committing and settling the same Generator based on a later, revised Bid, the NYISO failed to accurately perform the conduct test required by Section 3.1.2 of the Mitigation Measures.

<sup>10</sup> The NYISO informed the Commission Office of Energy Market Regulation Staff of the Tariff compliance concern on April 2, 2009.

On April 2, 2009, the NYISO “backed-out” its January 13, 2009, software change to the MIS and informed Market Participants of the change to the process for revising their Start-Up Bids.<sup>11</sup> This action brought the NYISO’s conduct testing back into full Tariff compliance from April 2, 2009, forward and ensured that the inputs to the NYISO’s Bid-based start-up reference level process were also Tariff-compliant on a going-forward basis.

On April 3, 2009, the NYISO held an initial telephone conference with its stakeholders to explain and discuss the inconsistency it first identified on March 30, 2009 and has since provided additional updates to its stakeholders on a number of occasions.<sup>12</sup> The NYISO plans to discuss with its stakeholders whether they would like the NYISO to, at some time in the future, re-deploy a corrected version of the software improvement that the NYISO deployed on January 13, 2009.

The NYISO has improved its control processes to reduce the possibility that similar errors could occur in future software deployments. In particular the NYISO’s test procedures have been strengthened to include tests to confirm that the same Bid parameters are being passed to both the market software and the mitigation software. The software release notes that the NYISO prepares for internal review and analysis have also been expanded to more completely describe the details of proposed software changes. The publication of more detailed release

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<sup>11</sup> Because the inconsistency between the Start-Up Bid used to commit and scheduled Generators and the Start-Up Bid used to test Generator Bids for mitigation presented the potential for Generators to inflate their Bid-based start-up reference levels or to evade the NYISO’s conduct test (had they been fully cognizant of the nature of the inconsistency), the issue was not communicated to the Market Participants until the NYISO was ready to deploy its solution. MMP’s after-the-fact review has not identified any Generators that inflated their Start-Up Bids in order to benefit from the identified concern.

<sup>12</sup> Since April 3, 2009, the NYISO has provided updated information to its stakeholders, including a description of the *de minimis* market impacts, at the April 14, 2009, Business Issues Committee meeting, the April 22, Market Issues Working Group, and the May 12, 2009, Market Issues Working Group.

notes is expected to assist in the identification of possible business impacts associated with a software change or addition prior to the finalization of software testing.

#### **IV. Analysis of Market Impacts**

MMP reviewed the original and revised Start-Up Bids submitted from January 13, 2009 to April 2, 2009 to determine what, if any, market impacts resulted from the application of the Mitigation Measures to inconsistent Start-Up Bids during this period.<sup>13</sup> In the Day-Ahead Market, there were no revised Start-Up Bids submitted, so the conduct test was performed appropriately and all Bid-based start-up reference levels were correctly calculated. However, there were revised Start-Up Bids submitted in the Real-Time Market, which resulted in *de minimis* market impacts, that are described in detail below. The NYISO's independent Market Advisor has reviewed, and concurs with, the following assessment of the market impacts.

##### **A. Reference Levels**

The NYISO's implementation of Section 3.1.4(d) of its Mitigation Measures requires a Generator to have at least fifteen accepted Start-Up Bids during competitive periods within a rolling 90-day period for the NYISO to utilize a Bid-based start-up reference level for that Generator. From February 4, 2009 to April 2, 2009, only one Generator in the Real-Time Market achieved a sufficient number of accepted Start-Up Bids within a 90 day period for the NYISO to apply a real-time Bid-based start-up reference level. This Generator was subject to a real-time Bid-based start-up reference level for 25 days (from March 2, 2009 to March 27, 2009). The Start-Up Bids used to develop this reference level included several Start-Up Bids that differed from the revised Start-Up Bids used to commit and settle (pay) the Generator. As a

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<sup>13</sup> The NYISO analyzed the impact of these changes by replacing the original, as-submitted Start-Up Bids that were used in conduct testing during the affected period, with the revised Start-Up Bids that were used in the NYISO's  
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result, the Generator's real-time Bid-based start-up reference level differed from the real-time Bid-based start-up reference level that would have been in place had the actual, accepted Start-Up Bids been used by up to 0.7% (seven-tenths of one percent).<sup>14</sup> Following this 25 day period, the Generator no longer qualified for a real-time Bid-based start-up reference level and was switched to a cost-based start-up reference level.

From March 28, 2009, to the date of this submission, there have not been any other Generators subject to real-time Bid-based start-up reference levels because there are no Generators that have the requisite 15 starts in real-time during competitive periods within the rolling 90 day window. For this reason, since March 28, 2009, the NYISO has used real-time start-up reference levels that were not affected by the inconsistent Start-Up Bids and that were Tariff compliant (such as cost-based reference levels) to perform conduct and impact tests of Generators in the New York Control Area. On June 5, 2009 the last of the inconsistent Start-Up Bids were purged from the rolling 90 day Bid history used to develop a Generator's Bid-based reference levels. Hence, the NYISO's calculation of Bid-based start-up reference levels is now fully Tariff compliant.

## **B. Performance of Conduct Tests**

The NYISO performs a conduct test, and then an impact test on Bids that fail the conduct test, to determine whether to mitigate a Generator's Bid. A Bid that fails both the conduct and impact tests is replaced with the applicable reference level. If a Start-Up Bid exceeds the start-up reference level for the relevant Generator by at least the thresholds specified in Section

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commitment and settlement processes to determine whether using the revised Start-Up Bids would have produced a different mitigation result.

<sup>14</sup> MMP arrived at the 0.7% differential by re-calculating the Generator's Bid-based reference level using the Bids submitted during competitive periods that were used in the NYISO's commitment and settlement processes and comparing them to the Bid-based reference level that was in place.

3.1.2(a)(3) or (b)(4) of the Mitigation Measures, the Bid fails the conduct test. The NYISO then performs the appropriate impact test (which may test for Locational Based Marginal Prices (“LBMP”) impact or for guarantee payment impact<sup>15</sup>) to determine if conduct-failing Bids should be mitigated. Under the NYISO’s automated mitigation procedures (“AMP”) that apply in the New York City Constrained Area at times when transmission constraints are active, the NYISO tests for LBMP impact by first calculating an LBMP for an active load pocket using the Bids submitted by all Generators in that load pocket. Next, the NYISO replaces all Start-Up, Minimum Generation and Incremental Energy conduct-failing Bids for all Generators in the load pocket with the appropriate reference levels. If the collective LBMP impact of replacing all conduct-failing Bids with their reference levels is greater than the threshold specified in Section 3.2.1(3) of the Mitigation Measures, then all conduct-failing Bids submitted by all Generators in the load pocket are mitigated (replaced with the appropriate reference level).

Under its Mitigation Measures, the NYISO is only permitted to mitigate Bids that fail the conduct test. Reciprocally, the NYISO is required to mitigate all Bids that fail the conduct test if the Generator is located in an active load pocket where impact has been determined. For this reason, an incorrect determination that a Generator’s Bid failed the conduct test can lead to inappropriate over-mitigation. Conversely, an incorrect determination that a Generator’s Bid passed the conduct test can result in missed, or under-mitigation. Because the concern that the NYISO identified did not directly affect the NYISO’s determination of impact (which used the

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<sup>15</sup> MMP’s analysis did not identify any inappropriate guarantee payment impact test results caused by the inconsistent use of Start-Up Bids. The three instances in which guarantee payments were inappropriately over-mitigated, and the two instances in which guarantee payments were inappropriately under-mitigated, all related to AMP mitigation in the New York City Constrained Area. When AMP impact is determined for a load pocket all conduct failing Bids submitted by Generators in the load pocket are mitigated.

same Bids that were used for commitment and settlement purposes and remained Tariff compliant), MMP appropriately focused its analysis on identifying incorrect conduct test results.

MMP's analysis identified the following incorrect AMP results:

- Three instances in which a Generator would not have failed the conduct test using the Start-Up Bid that was used by the NYISO for commitment and settlement purposes. In these three instances, the NYISO should not have impact tested and mitigated the Generator's Start-Up Bid. These Generators' real-time guarantee payments were inappropriately reduced, in aggregate, by \$265.04.
- Two instances in which a Generator would have failed the conduct test using the Start-Up Bid that was used by the NYISO for commitment and settlement purposes. In these two instances, the NYISO should have impact tested and mitigated the Generator's Start-Up Bid. The NYISO paid an aggregate of \$178.95 in excess guarantee payments to these Generators.

Outside the New York City Constrained Area, the NYISO is responsible for "manually" mitigating Bids that exceed both the conduct thresholds specified in Section 3.1.2(a) of the Mitigation Measures and the impact thresholds specified in Section 3.2.1(1) and (2) of the Mitigation Measures. From January 13, 2009 to April 2, 2009 there were no Bids that failed, or that should have failed, conduct at the appropriate threshold. Therefore, all mitigation, other than the five instances of New York City AMP mitigation identified above, was Tariff compliant.

### **C. Locational Based Marginal Prices**

It is theoretically possible that real-time LBMPs could have been affected by the discontinuity between the Bids used for commitment and settlement and the Bids used to apply

mitigation. The NYISO is not capable of re-running its Real-Time Market to conclusively determine (or disprove) this possibility. However, the NYISO has affirmatively identified only five instances in which mitigation was incorrectly applied. Based on MMP's review of the bidding behavior of the entities responsible for offering the affected Generators into the New York markets, the NYISO has concluded that any LBMP impact would likely be *de minimis*. The NYISO's independent Market Advisor agrees with the NYISO's conclusion.

## V. Request for Waivers

The NYISO respectfully requests that the Commission grant such waivers as may be necessary to excuse the NYISO from (a) revising the mitigation it applied from January 13, 2009 to April 2, 2009, (b) recalculating the Bid-based real-time Start-Up reference level it used from March 2, 2009 to March 27, 2009, (c) revising Generator settlements after-the-fact to address the foregoing concerns, or (d) revising market clearing prices to correct for the *de minimis* financial impacts that resulted from using the inconsistent Start-Up Bids.

The Commission has previously evaluated a number of issues in determining whether to authorize a tariff waiver to alleviate the effects of an error. These include whether: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences, such as harming third parties.<sup>16</sup>

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<sup>16</sup> See, e.g., *California Independent System Operator Corp.*, 116 FERC ¶ 61,226 at P 8 (2006) (granting limited waiver of tariff provisions governing sanctions for failing to timely submit generator outage and other information in order to allow California ISO to ensure that market participants were not inappropriately penalized); *New York Independent System Operator, Inc.*, 112 FERC ¶ 61,347 at P 7 (2005) (granting the NYISO a discrete tariff waiver in order to recalculate certain charges); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 at P. 16 (2003) ("Great Lakes has shown good cause for its Emergency Waiver request and has shown that the impact on non-exempt customers whose supply may be curtailed will be *de minimis*."); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 at P 5 (2003) ("The Commission finds that in this instance, good cause has been shown to waive TransColorado's Fuel Gas Reimbursement provision in Section 12.9 of its FERC Gas Tariff, First Revised Volume I, as requested."); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 at 61,780 (1996) (granting one-time  
(continued...)

The underlying error was made in good faith. The NYISO deployed the software change to improve the usability of its MIS for Market Participants. The NYISO was not aware that the software change would cause it to use Start-Up Bids for mitigation that were not consistent with the Start-Up Bids used for commitment and settlement. Once the NYISO discovered the error, it moved to remedy the problems in an expeditious manner, including promptly notifying Market Participants and Commission staff.

The scope of the requested waivers is limited. The use of inconsistent Start-Up Bids to perform conduct testing and develop Bid-based reference levels was limited to a three-month period, only affected the Real-Time Market, and resulted in *de minimis* market impacts. Specifically, the NYISO underpaid certain Generators by a total of approximately \$265.04, and over-paid certain Generators by a total of approximately \$178.95. In addition, one Generator's real-time Bid-based start-up reference level differed by a negligible 0.7% from what it should have been. No other reference level that included incorrect inputs was used to test for or apply mitigation. On April 2, 2009 the NYISO backed out the software change that led to the discrepancy and is conduct testing Generators and using inputs for the development of Bid-based start-up reference levels in a Tariff compliant manner going forward.

A concrete problem needs to be remedied. Market Participants relied on market outcomes and mitigation results from January 13, 2009 to April 2, 2009 to inform their bidding behavior. The NYISO respectfully requests that the Commission not require it to adjust Market Participants settled expectations regarding their market outcomes and mitigation results upon which they relied to address the *de minimis* impacts described in this filing. As the Commission

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waiver request). *See also Wisvest-Connecticut LLC v. ISO-New England, Inc.*, 101 FERC ¶ 61,372 at P 24 (2002) (finding that ISO-NE rules requiring assessment of deficiency penalty should not be applied in this case because market participant's error giving rise to the penalty was "an inadvertent mishap.").

has recognized in prior orders, making retroactive adjustments in such instances cannot be accurately accomplished because it requires the NYISO to make assumptions about how Market Participants would have responded to changes in market outcomes.<sup>17</sup>

Finally, the requested waiver will prevent harm to Market Participants by ensuring that their settled expectations about historic market outcomes are not disrupted and by promoting financial certainty in the NYISO-administered markets.

## VI. Service

The NYISO will electronically send a link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission and the New Jersey Board of Public Utilities, and send a copy of this filing by first class mail to the Pennsylvania Public Utilities Commission. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations (18 C.F.R. § 35.2(d) (2008)) to permit it to provide service in this manner.

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<sup>17</sup> See, e.g., *Ameren Services Co., et al. v. Midwest Independent System Operator, Inc.* 127 FERC ¶ 61,121 at P 157 (2009) (determining not to order Midwest ISO to re-run the affected markets to provide refunds because the computation of such refunds would be complex, would encourage needless litigation, and would necessarily be inaccurate because Midwest ISO could not take into account the different decisions that Market Participants would have made under the different circumstances); *New York Independent System Operator, Inc.*, 92 FERC ¶ 61,073 (“The use of [retroactive price correction] remedies . . . would create substantial uncertainty in the New York markets and would undermine confidence in them”) (2000). See also, *Wisvest-Connecticut, LLC v. ISO New England, Inc.*, 103 FERC ¶ 61,302 at P 20, *order on reh'g*, 104 FERC ¶ 61,262 (2003) (“We will not disturb the finality of past ICAP market transactions by opening the books where months have finally settled.”); *Bangor-Hydro Electric Co. v. ISO New England, Inc.*, 97 FERC ¶ 61,339, at 62,590 (2001) (stating that clearing prices resulting from implementation error had been relied upon by market participants, and “to go back and change those prices, when no notice was given by ISO-NE that such a disruption might occur, would do far more harm..than is justifiable or appropriate under the circumstances...and would be fundamentally unfair to market participants”).

## **VII. Conclusion**

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission grant the limited tariff waivers requested in Section V. of this filing.

Respectfully submitted,

*/s/ Alex M. Schnell*

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Robert E. Fernandez

General Counsel and Corporate Secretary

Alex M. Schnell

New York Independent System Operator, Inc.

Dated: June 17, 2009